



1 **II. REQUEST FOR HEARING**

2 Plaintiff requests a court hearing to resolve the motion for preliminary injunctive relief he filed  
3 on August 28, 2012. Plaintiff is advised that his motion for preliminary injunctive relief was terminated  
4 by the Northern District when the case was transferred. The Northern District's transfer order, issued  
5 on October 9, 2012, provides that "[t]he Clerk shall terminate any pending motions and transfer the  
6 entire file to the Eastern District of California." (Doc. 16:24-25.) Because Plaintiff's motion for  
7 preliminary injunctive relief was pending when the transfer order was issued, the motion was terminated  
8 before the case was transferred to the Eastern District. Therefore, Plaintiff's motion is not pending at  
9 this court, and the request for a court hearing shall be denied. For consideration of his motion for  
10 preliminary injunctive relief, Plaintiff must file a new motion at this court.

11 **III. REQUEST TO AMEND COMPLAINT**

12 Plaintiff also seeks to amend the complaint to substitute names for his Doe Defendants. Plaintiff  
13 may not add information piecemeal to the complaint. Local Rule 220 requires that an amended  
14 complaint be complete in itself without reference to any prior pleading. Under Rule 220, then, Plaintiff  
15 cannot amend the original complaint simply by requesting the court to make changes in the complaint.  
16 As a general rule, an amended complaint supercedes the original complaint, Lacey v. Maricopa County,  
17 693 F 3d. 896, 907 n.1 (9th Cir. 2012) (en banc), and it must be complete in itself without reference to  
18 the prior or superceded pleading. Therefore, to amend the complaint, Plaintiff must submit a First  
19 Amended Complaint which is complete in itself.

20 Under Rule 15(a) of the Federal Rules of Civil Procedure, a party may amend the party's  
21 pleading once as a matter of course at any time before a responsive pleading is served. Otherwise, a  
22 party may amend only by leave of the court or by written consent of the adverse party, and leave shall  
23 be freely given when justice so requires. Fed. R. Civ. P. 15(a). Because Plaintiff has not amended the  
24 complaint, and no responsive pleading has been served in this action, Plaintiff has leave to file an  
25 amended complaint as a matter of course.

26 Plaintiff is informed he must demonstrate in his amended complaint how the conditions  
27 complained of have resulted in a deprivation of Plaintiff's constitutional rights. See Ellis v. Cassidy,

1 625 F.2d 227 (9th Cir. 1980). The complaint must allege in specific terms how each named defendant  
2 is involved. There can be no liability under 42 U.S.C. § 1983 unless there is some affirmative link or  
3 connection between a defendant's actions and the claimed deprivation. Rizzo v. Goode, 423 U.S. 362  
4 (1976); May v. Enomoto, 633 F.2d 164, 167 (9th Cir. 1980); Johnson v. Duffy, 588 F.2d 740, 743 (9th  
5 Cir. 1978).

6 Plaintiff should note that although he has the opportunity to amend, it is not for the purpose of  
7 adding new defendants relating to issues arising after June 28, 2012. In addition, Plaintiff should take  
8 care to include only those claims that have been exhausted prior to the initiation of this suit on June 28,  
9 2012. The First Amended Complaint should be clearly and boldly titled "FIRST AMENDED  
10 COMPLAINT," refer to the appropriate case number, and be an original signed under penalty of perjury.

11 **III. CONCLUSION**

12 Accordingly, it is HEREBY ORDERED that:

- 13 1. Plaintiff's motion for a court hearing is DENIED;
- 14 2. Plaintiff is informed that he has leave to amend the complaint once as a matter of course;
- 15 3. Within thirty (30) days from the date of service of this order, Plaintiff shall file a First  
16 Amended Complaint using the court's form;
- 17 4. The First Amended Complaint should be clearly and boldly titled "FIRST AMENDED  
18 COMPLAINT," refer to case number 1:12-cv-01662-AWI-GSA-PC , and be an original  
19 signed under penalty of perjury;
- 20 5. The Clerk of the Court shall send one civil rights complaint form to Plaintiff; and
- 21 6. Plaintiff is warned that the failure to comply with this order will result in a  
22 recommendation that this action be dismissed for failure to obey a court order.

23  
24 IT IS SO ORDERED.

25 **Dated: February 7, 2013**

25 **/s/ Gary S. Austin**  
26 **UNITED STATES MAGISTRATE JUDGE**